

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

CHUNG KAO,  
Plaintiff,  
v.  
R. SORIA, et al.,  
Defendants.

Case No. 17-cv-00873-HSG (PR)

**ORDER *SUA SPONTE* GRANTING  
EXTENSION OF TIME TO FILE  
AMENDED COMPLAINT**

Plaintiff, a California state prisoner proceeding *pro se*, filed the instant civil rights action against various defendants at San Quentin State Prison (“SQSP”), claiming that he was retaliated against for pursuing an administrative grievance. On April 6, 2017, the Court screened the complaint and found it stated cognizable retaliation and due process claims, as well as supplemental state law claims for intentional infliction of emotional distress, violation of the California Information Practices Act, conversion of property, and negligence. On March 8, 2018, the Court denied defendants’ motion to stay the instant action pending resolution of a similar action plaintiff is pursuing in state court. However, the Court directed plaintiff to file an amended complaint noting that it was no longer clear which claims plaintiff wished to pursue by way of the instant action. Specifically, the Court noted that plaintiff had referred to an amended complaint even though an amended complaint was never filed. The Court also noted that plaintiff has separately filed a request to dismiss his state law claims for negligence and conversion. Finally, the Court noted that plaintiff had elsewhere stated that he had never intended to pursue a state law claim for intentional infliction of emotional distress. The Court directed plaintiff to file an amended complaint within twenty-eight days in order to create a clear record on which claims he seeks to pursue before directing defendants respond.


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More than twenty-eight days have passed, and plaintiff has not filed an amended complaint or otherwise communicated with the Court. In the interests of justice, the Court *sua sponte* GRANTS plaintiff an extension of time to **June 1, 2018** file his amended complaint. The Court will issue a briefing schedule after reviewing the amended complaint.

**Failure to file an amended complaint in the time provided will result in the dismissal of this action without further notice to plaintiff for failure to prosecute pursuant to Federal Rule of Civil Procedure 41(b).**

**IT IS SO ORDERED.**

Dated: 5/7/2018

  
HAYWOOD S. GILLIAM, JR.  
United States District Judge